

## **REMARKS**

### **I. Claim Amendments:**

Applicants have amended claims 18, 25, and 26. Support for the amendments may be found in the specification at, for example, at page 12, line 5 - page 13, line 9. Upon entry of this Amendment, claims 18-22 and 24-34 remain pending, with claims 29-33 withdrawn from consideration, and claims 18-22, 24-28, and 34 under current examination.

### **II. Office Action:**

Applicants respectfully traverse the rejections made in the Office Action mailed October 27, 2010, wherein the Examiner:

(1) rejected claims 18, 24-28, and 34 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2003/0115421 ("*McHenry*") in view of U.S. Patent App. Pub. No. 2002/0010798 ("*Ben-Shaul*") and U.S. Patent App. Pub. No. 2003/0028564 ("*Sanfilippo*");

(2) rejected claims 19 and 20 under 35 U.S.C. § 103(a) as being unpatentable over *McHenry* in view of *Ben-Shaul* and *Sanfilippo*, and further in view of U.S. Patent No. 6,829,613 ("*Liddy*");

(3) rejected claim 21 under 35 U.S.C. § 103(a) as being unpatentable over *McHenry* in view of *Ben-Shaul* and *Sanfilippo*, and further in view of U.S. Patent App. Pub. No. 2002/0062300 ("*Asadov*"); and

(4) rejected claim 22 under 35 U.S.C. § 103(a) as being unpatentable over *McHenry* in view of *Ben-Shaul*, *Sanfilippo*, and *Asadov*, and further in view of U.S. Patent App. Pub. No. 2002/0188681 ("*Gruen*").

### **III. Rejections of Claims 18-22, 24-28, and 34 under 35 U.S.C. § 103(a):**

Applicants request reconsideration and withdrawal of the rejections of claims 18-22, 24-28, and 34 under 35 U.S.C. § 103(a) as being unpatentable over *McHenry*, in view of one or more of *Ben-Shaul*, *Sanfilippo*, *Liddy*, *Asadov*, and *Gruen*. See Office Action, pp. 3-12.

The Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness

analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Office Action has properly not interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Contrary to the assertions of the Office Action, the recited references, taken alone or in combination, do not teach or suggest at least the following features of amended claim 18, for example:

- receiving an input of an interest threshold;
- identifying at least one category, from said predefined categories, when the distributed contents associated with the category have an interest value that exceeds the interest threshold, wherein the interest value is indicative of user interest in the distributed contents; and
- making at least one of the identified contents associated with said identified category available for distribution at said surrogate servers.

*McHenry* discloses an “operating environment 10 ... providing for ... distribution of content throughout a geographically distributed enterprise.” *McHenry*, paragraph [0025]. The Office Action alleged that content on *McHenry*’s “enterprise network edge servers” (*McHenry*, paragraph [0025]) and “origin server systems” (*Id.*) correspond to the claimed “distributed contents available at surrogate servers” and “remaining contents that are not available at the surrogate servers,” respectively. See Office Action, p. 3. The Office Action further alleged that *McHenry*’s “predefined set of domain content identifiers” (*McHenry*, paragraph [0013]) and “a plurality of content groups” correspond to the claimed “predefined categories.” See Office Action, p. 4. Even if Applicants accepted these allegations, solely for the sake of argument,

*McHenry* still fails to teach or suggest the “receiving,” “identifying,” and “making” features of amended claim 18.

The Office Action interpreted *McHenry*’s “user access frequencies” that “are reported back by the enterprise network edge servers 22, 24” as corresponding to the claimed “user interest.” *See* Office Action, pp. 4-5. Failing to identify actual teachings of the claimed “interest threshold” by *McHenry*, the Office Action asserted that “as one [of] ordinary skill in the art would recognize, some type of threshold has to be predetermined and used for taking into account of the user access frequencies/interest.” Office Action, pp. 4-5. This allegation is incorrect at least because of its apparent use of hindsight reasoning. Indeed, *McHenry* is completely silent regarding “receiving an input of an interest threshold,” as recited by claim 18.

Furthermore, the Office Action does not explain the supposed pertinence of *McHenry* to the step of “identifying at least one category, from said predefined categories, when the distributed contents associated with the category have an interest value that exceeds the interest threshold, wherein the interest value is indicative of user interest in the distributed contents,” as recited in claim 18, nor does *McHenry* teach or suggest this limitation. Although *McHenry* discloses “a plurality of content groups representing respective content sub-sets of the bounded content domain,” it is silent about “identifying” any of these content groups “when the distributed contents associated with the category have an interest value that exceeds the interest threshold,” as recited in claim 18. *See McHenry*, paragraph [0013].

Moreover, *McHenry* is also silent about “making at least one of the identified contents associated with said identified category available for distribution at said surrogate servers,” as recited in claim 18. Indeed, although *McHenry* discloses “origin servers” and “edge servers,” *McHenry* does not teach or suggest making the contents on the “edge servers” available for

distribution when the contents on the “edge servers” “have an interest value that exceeds the interest threshold,” as recited in claim 18.

*Ben-Shaul* and *Sanfilippo*, taken either alone or in combination, do not cure the deficiencies of *McHenry* because they also fail to teach or suggest the above-quote claim features recited in amended claim 18. Instead, *Ben-Shaul* is merely cited for its alleged teaching of “semantics affinity” and *Sanfilippo* is merely cited for its alleged teaching that “the semantics affinity is calculated as the distance between the additional content and the reference content.” See Office Action, p. 5-6. However, the Office Action does not allege, and *Ben-Shaul* and *Sanfilippo* does not teach or suggest, at least Applicants’ “receiving,” “identifying,” and “making” features of claim 18.

For at least the above reasons, the Office Action has not properly ascertained the differences between the prior art and the claimed invention. Independent claim 18 and its dependent claims 24-28 and 34 should therefore be allowable over *McHenry*, *Ben-Shaul*, and *Sanfilippo*, taken alone or in any combination. Moreover, *Liddy*, *Asadov*, and *Gruen*, whether taken alone or in any combination with *McHenry*, *Ben-Shaul*, and *Sanfilippo*, fail to cure the deficiencies of *McHenry*, *Ben-Shaul*, and *Sanfilippo*, and the Office Action does not allege that they do so. Therefore, dependent claims 19-22 are not obvious over *McHenry*, *Ben-Shaul*, and *Sanfilippo* in view of one or more of *Liddy*, *Asadov*, and *Gruen*, whether taken alone or in any combination, at least by virtue of being dependent from nonobvious base claim 18, and because claims 19-22 recite additional features not taught or suggested by the cited references. Accordingly, Applicants request the withdrawal of the 35 U.S.C. § 103(a) rejections and allowance of these claims.

**IV. Conclusion:**

Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 18-22, 24-28, and 34 are in condition for allowance, and Applicants request a favorable action.

The Office Action contains a number of statements reflecting characterizations of the cited art and related claims. Regardless of whether any such statements are identified herein, Applicants decline to automatically subscribe to any such statements or characterizations.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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Dated: January 13, 2011

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